

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BABYAGE.COM, INC.,)	
)	
Plaintiff-Counterclaim Defendant,)	
)	
v.)	
)	
LEACHCO, INC.,)	
)	
Defendant-Counterclaim Plaintiff,)	No. 3:07-cv-01600-ARC
)	
and)	(Judge A. Richard Caputo)
)	
JAMIE S. LEACH,)	(electronically filed)
)	
Counterclaim Plaintiff,)	
)	
v.)	
)	
JOHN M. KIEFER, JR.,)	
)	
Counterclaim Defendant.)	

**MOTION TO DISMISS BY
THIRD PARTY PLAINTIFF LEACHCO, INC.**

The Third Party Plaintiff Leachco, Inc. moves, pursuant to Rules 12(b)(1) and 12(b)(6), Federal Rules of Civil Procedure, to dismiss the Counterclaim of Third Party Defendant John M. Kiefer, Jr., filed February 1, 2008 (Doc. 25 at 5-20), for lack of standing.

The grounds for this Motion are explained in the accompanying Brief.

The undersigned counsel certifies that he conferred by telephone with Dr. Andrew J. Katsock, III, counsel for Third Party Defendant John M. Kiefer, Jr. and sought his client's concurrence in the instant Motion. Such concurrence was not secured.

Respectfully submitted,

s/ Gary Peterson

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Attorneys for Third Party Plaintiff Leachco, Inc.

CERTIFICATE OF SERVICE

I certify that I electronically transmitted this document to the Clerk using the ECF System so as to cause transmittal of a Notice of a Electronic Filing to the following ECF registrant:

Andrew J. Katsock, III

Attorney for Babyage.com, Inc. and John M. Kiefer, Jr., on February 19, 2008.

s/ Gary Peterson